SUPREME COURT OF THE UNITED STATES.

No. 95.

CHARLES BALLANCE, PL'FF IN ERROR,

vs.

JOSEPH L. PAPIN AND NICHOLAS B. S. ELDRED.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE NORTHERN DISTRICT OF ILLINOIS..

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GIDEON, Print.

UNITED STATES OF AMERICA,
Northern District of Illinois.

Pleas in the Circuit Court of the United States for the northern district of Illinois, held at the city of Chicago, in the district aforesaid, before the Hon. John McLean, one of the justices of the Supreme Court of the United States, presiding, and the Hon. Thomas Drummond, judge of the district court of the United States for the northern district of Illinois, associate.

On Monday, the twenty-first day of July, in the year of our Lord one thousand eight hundred and fifty-six, and of our independence the eighty-first year.

JOSEPH L. PAPIN and NICHOLAS B. S. ELDRED vs. JAMES RAMSAY. } Ejectment.

Be it remembered, that heretofore, to wit, on the 20th day of December, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning and Merriman, their attorneys, who filed in open court their declaration, notice, and affidavit of service, and also their bond for costs in the above entitled cause, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois.

In the Circuit Court of the United States, in and for the district and State of Illinois.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of James Ramsay, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore he, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiffs were possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that part of lot or claim fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet by the confirmatory act of Congress, approved the third of March, A. D. 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois, as is covered by the northwesterly half of lot

No. one, in block No. forty-two, in Ballance's addition to the town of Peoria, so called, and laid out and surveyed on the southwest fractional quarter of section nine, in township eight north, in range eight east of the fourth principal meridian; and being so possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises, and that he unlawfully withhold from the plaintiffs the possession thereof; and said plaintiffs aver that they claim title to said premises in fee. And said plaintiffs further aver, that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars, and therefore they sue, &c.

MANNING & MERRIMAN,
Attorneys for Plaintiffs.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3d Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That, upon filing the same, a rule will be entered, requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Atorneys for Plaintiffs.

Dated Dec. 4th, 1854.

STATE OF ILLINOIS,
County of Peoria.

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally, on the twelfth day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me, this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
U. S. Commissioner.

Endorsed: Filed Dec. 20th, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.
Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto James Ramsay, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Ramsay or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors, and administrators, and every of them, jointly, severally, and firmly by these presents.

Witness my hand and seal, the 20th day of December, in the year of our Lord one thousand eight hundred and fifty-four.

The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois against James Ramsay: Now, if the said Merriman, heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf, if judgment shall pass against the said defendant, and the costs, and fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

A. L. MERRIMAN, [L. S.]

Endorsed: Filed this 20th day of Dec., A. D. 1854.
WM. POPE, *Clerk.*

And on the same day, to wit, the 20th day of December, in the said December term, A. D. 1854, of said court, in the record of the proceedings thereof in said cause is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
JAMES RAMSAY.
} Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing thereto attached, and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs, by their said attorney, that defendants plead herein in twenty days, or that his default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, in the December term, A. D. 1854, of said court, came into court the said James Ramsay, defendant, by C. Ballance, his attorney, and filed his plea, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.
Circuit Court, Dec. term, A. D. 1854.

JAMES RAMSAY ads. JOSEPH L. PAPIN et al. } In Ejectment.

Said defendant comes and defends the force and injury, when, &c., and says said plaintiffs actio non, because, he says he is not guilty of the trespass and ejectment in said declaration charged against him; and of this he puts himself upon the country, &c.

C. BALLANCE, *for Def't.*

Endorsed: Filed Jan'y 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED, vs. NICHOLAS ERION. } Ejectment.

Be it remembered, that heretofore, to wit, on the 20th day of December, A. D. 1854, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning and Merriman, their attorneys, who filed in open court their declaration, notice, and affidavit of service, and also their bond for costs in the above entitled cause, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois, ss.

In the Circuit Court of the United States in and for the district and State of Illinois.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of Nicholas Erion, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore he, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiffs were possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that part of lot or claim No. fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet, by the confirmatory act of Congress of third of March, A. D. 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of

Illinois," as is covered by the northeasterly half of lot No. ten, in block No. forty-two, in Ballance's addition to the town of Peoria, so called, surveyed and laid out on fractional southwest quarter of section nine, in township eight north, in range eight east of the 4th principal meridian; and being so possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises; and that he unlawfully withhold from the plaintiffs the possession thereof; and said plaintiffs aver, that *he* claim title to said premises in fee. And said plaintiffs further aver, that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars; and therefore they sue, &c.

MANNING & MERRIMAN,
Attorney for Plaintiffs.

To the above named defendant: Take notice that—

1. On the first day of the December term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3d Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That, upon filing the same, a rule will be entered, requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Attorney for Plaintiffs.

Dated Dec. 4th, 1854.

STATE OF ILLINOIS, *County of Peoria.*

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally, on the 12th day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
U. S. Commissioner.

Endorsed: Filed Dec. 20th, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.

December term, A. D. 1854, Circuit Court.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto Nicholas Erion, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Erion or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators, or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors, and administrators, and every of them, jointly, severally and firmly, by the presents. Witness my hand and seal the 20th day of December, in the year of our Lord one thousand eight hundred and fifty-four. The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois, against Nicholas Erion: Now, if the said Merriman, heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf, if judgment shall pass against the said defendant, and the costs, and fail to be collected of defendants, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

A. L. MERRIMAN. [L. S.]

Endorsed: Filed this 20th day of Dec., A. D. 1854.
WM. POPE, *Clerk.*

And on the same day, to wit, the 20th day of December, A. D. 1854, in the record of the proceedings of said court in the above entitled cause, is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
NICHOLAS ERION. } Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice, in writing, thereto attached; and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs, by their said attorneys, that defendant plead thereto in twenty days, or that his default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, in the December term, A. D. 1854, of said court, came the said Nicholas Erion, defendant, by C. Ballance, his attorney, and filed in said court his plea in the above entitled cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.

In the Circuit Court—Of the December term, 1854.

NICHOLAS ERION ads. JOSEPH L. PAPIN. } In Ejectment.

Said defendant comes and defends the force and injury, when, &c., and says he is not guilty of the force and ejectment in said declaration charged to him, and of this he puts himself upon the country, &c.

C. BALLANCE, *for Defendant.*

Endorsed: Filed Jan'y 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED, vs. GEORGE HEPPLER. } Ejectment.

Be it remembered that heretofore, to wit, on the 20th day of December, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning & Merriman, their attorneys, who filed in open court their declaration, notice, and certificate of service, and also their bond for costs, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois.

In the Circuit Court of the United States.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of George Heppler, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore he, the said defendant, with force and arms, &c., entered into the following described premises; for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiffs were possessed of certain premises in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that part of the lot number fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet by an act of Congress approved the third of March, A. D. 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois, as is covered by the southwesterly half lot No. ten, in block No. forty-one, in Ballance's addition to the town of Peoria, so called, and laid out on the southwest quarter of section No. nine, in township eight north, in range eight east of fourth principal meridian. And being so

possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises, and that he unlawfully withhold from the plaintiffs the possession thereof; and said plaintiffs aver that they claim title to said premises in fee. And said plaintiffs further aver that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars, and therefore they sue, &c.

MANNING & MERRIMAN,
Attorneys for Plaintiffs.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3d Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That, upon filing the same, a rule will be entered, requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Attorneys for Plaintiffs.

Dated Dec. 4th, 1854.

STATE OF ILLINOIS,
County of Peoria.

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally, on the 12th day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me, this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
U. S. Commissioner.

Endorsed: Filed Dec. 20th, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.
Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto George Heppler, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Heppler or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors, and administrators, and every of them, jointly, severally, and firmly by these presents. Witness my hand and seal, the 20th day of December, in the year of our Lord one thousand eight hundred and fifty-four.

The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois, against George Heppler: Now, if the said Merriman, heirs, executors or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf, if judgment shall pass against the said defendant, and the costs, and fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void; otherwise of full force and effect.

A. L. MERRIMAN, [L. S.]

Endorsed: Filed this 20th day of Dec., A. D. 1854.
WM. POPE, *Clerk.*

And on the same day, to wit, the 20th day of December, in the December term, A. D. 1854, of said court, in the record of the proceedings thereof in said entitled cause is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
GEORGE HEPPLER.
} Ejectment.

This day came the plaintiffs by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing thereto attached; and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs by their said attorneys, that defendant plead thereto in twenty days or that his default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, as yet of the December term, A. D. 1854, of said circuit court, came into court the said George Heppler, defendant, by C. Ballance, his attorney, and filed his plea in the above entitled cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.

In the Circuit Court—Of the Dec'r term, A. D. 1854.

GGORGE HEPPLER ads. JOSEPH L. PAPIN. } In Ejectment.

Said defendant comes and defends the force and injury, when, &c.; and says said plaintiff actio non, because, he says, he is not guilty of the trespass and ejectment in said declaration charged against him; and of this he puts himself upon the country, &c.

C. BALLANCE,
For Defendant.

Endorsed: Filed Jan'y 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED, vs. CATHERIN ROETHER. } Ejectment.

Be it remembered that heretofore, to wit, on the 20th day of December, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning & Merriman, their attorneys, and filed their declaration, notice, and certificate of service, and also their bond for costs in the above entitled cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois, ss.

In the Circuit Court of the United States in and for the district and State of Illinois.—Of the December term in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of Catherine Roether, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore she, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiff possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that part of lot or claim fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet by the confirmatory act of Congress approved the third of March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State

of Illinois, as is covered by the northeasterly half of lot eleven, in block forty-two, in Ballance's addition to the town of Peoria, so called, and laid out on the southwest fractional quarter of section nine, in township eight north, in range eight, east of the fourth principal meridian, and, being so possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty four, entered into such premises, and that she unlawfully withhold from the plaintiff the possession thereof; and said plaintiffs aver that they claim title to said premises in fee. And said plaintiffs further aver that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars, and therefore they sue, &c.

MANNING & MERRIMAN,
Attorney for Plaintiffs.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3d Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That upon filing the same a rule will be entered requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Attorney for Plaintiffs.

Dated Dec. 4th, 1854.

STATE OF ILLINOIS,
County of Peoria.

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally on the 12th day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
U. S. Commissioner.

Endorsed: Filed Dec. 20th, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.

Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto Catherine Roether, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Roetha, or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators, or assigns, or successors in office; to which payment well and truly to be made, I do bind myself, my heirs, executors, and administrators, and every of them, jointly, severally, and firmly, by these presents. Witness my hand and seal, the 20th day of December, in the year of our Lord one thousand eight hundred and fifty-four. The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois, against Catherine Roether: Now, if the said Merriman, heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him the said plaintiff in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf if judgment shall pass against said defendant, and *and* the costs, and fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect. A. L. MERRIMAN. [L. S.]

Endorsed: Filed this 20th day of Dec., A. D. 1854.
WM. POPE, *Clerk.*

And on the same day, to wit, on the 20th day of December, in the December term, A. D. 1854, of said circuit court, in the record of the proceedings thereof, in said entitled cause, is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
CATHERINE ROETHER. } Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing thereto attached; and, upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs by their said attorneys, that defendant plead thereto in twenty days, or that her default be entered.

And on the 12th day of January, A. D. 1855, in the December term, A. D. 1854, of said circuit court, came into court the said Catherine Roether, defendant, by C. Ballance, her attorney, and filed her plea in said cause, which is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.

In the Circuit Court.—Of the Dec. term, A. D. 1854.

CATHERINE ROESTER
ads.
JOSEPH L. PAPIN et al. } In Ejectment.

Said defendant comes and defends the force and injury, when, &c., and says she is not guilty of the trespass and ejectment in said declaration charged against her; and of this she puts herself upon the country.

C. BALLANCE, *for Def't.*

Endorsed: Filed Jan'y 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN,
NICHOLAS B. S. ELDRED,
vs.
CATHERINE BENSEL. } Ejectment.

Be it remembered that on the 20th day of December, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning & Merriman, their attorneys, who filed, in open court, their declaration, notice, and affidavit of service, and also their bond for costs in the above entitled cause, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois.

In the Circuit Court of the United States in and for the district and State of Illinois.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of Catherine Bensel, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore she, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiffs were possessed of certain premises, situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that portion of lot or claim fifty-one, confirmed to Hyppolite Maillet by the confirmatory act of Congress of the third of March, A. D. 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," as is covered by lot No. nine in block forty-two, in Ballance's

addition to the town of Peoria, so called, surveyed and laid out on the southwest quarter of section nine, in township eight north, in range eight, east of the 4th principal meridian; and being so possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises, and that she unlawfully withholds from the plaintiffs the possession thereof; and said plaintiffs aver that they claim title to said premises in fee. And said plaintiffs further aver that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars, and therefore they sue, &c.

MANNING & MERRIMAN,
Attorney for Plaintiffs.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3d Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That upon filing the same, a rule will be entered, requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Dated Dec. 4th, 1854. *Attorney for Plaintiffs.*

STATE OF ILLINOIS, *County of Peoria.*

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally on the 12th day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
U. S. Commissioner.

Endorsed: Filed Dec. 20th, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.

Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria and State and district of Illinois, am held and firmly bound unto Catherine Bensel, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Bensel, or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors and administrators, and every of them, jointly, severally and firmly, by these presents. Witness my hand and seal the 20th day of December, in the year of our Lord one thousand eight hundred and fifty-four.

The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois, against Catherine Bensel: Now, if the said Merriman, heirs, executors or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf, if judgment shall pass against the said defendant, and the costs, and fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

A. L. MERRIMAN. [L. S.]

Endorsed: Filed this 20th day of Dec., A. D. 1854.
WM. POPE, *Clerk.*

And on the same day, to wit, on the 20th day of December, A. D. 1854, in the record of the proceedings of said court in said cause is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
CATHERINE BENSEL. } Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing thereto attached. And upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs, by their said attorneys, that defendant plead thereto in twenty days or that her default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, of the December term, A. D. 1854, of said court, came into court the said Catherine Bensel, by C. Ballance, her attorney, and filed her plea in the above entitled cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.

In the Circuit Court.—Of the December term, 1854.

CATHERINE BENSEL
ads. } In Ejectment.
JOSEPH L. PAPIN.

Defendant comes and defends the force and injury, when, &c., and prays judgment of said declaration and notice, because, he says, that said premises in said declaration put in controversy are not in value worth five hundred dollars; and of this he puts himself upon the country; wherefore he prays judgment.

C. BALLANCE,
for Defendant.

Endorsed: Filed January 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } Ejectment.
PHILIP J. MOSHER.

Be it remembered, that heretofore, to wit, on the 20th day of December, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning & Merriman, their attorneys, who filed in open court their declaration, notice, and affidavit of service, and also their bond for costs in the above entitled cause, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois.

In the Circuit Court of the United States in and for the district and State of Illinois.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of Philip J. Mosher, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore he, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiffs were possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that part of lot or claim No. fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet, by the confirmatory act of Congress of third of March, A. D. 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the

State of Illinois, as is covered by lot No. two, in block forty-two, in Ballance's addition to the town of Peoria so called, surveyed and laid out on the southwest fractional quarter of section nine, in township eight north, in range eight east, of the fourth principal meridian; and being so possessed thereof, the said defendant, afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises, and that he unlawfully withhold from the plaintiffs the possession thereof, and said plaintiffs aver that they claim title to said premises in fee.

And said plaintiffs further aver, that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars, and therefore they sue, &c.

MANNING & MERRIMAN,
Attorney for Plaintiff.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3 Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That, upon filing the same, a rule will be entered requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That, if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Dated Dec. 4th, 1854. Yours, &c.,
MANNING & MERRIMAN,
Attorney for Plaintiffs.

STATE OF ILLINOIS, *County of Peoria.*

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally on the eleventh day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me, Jacob Gale, clerk of the circuit court of Peoria county, this eleventh day of December, A. D. 1854.

Witness Jacob Gale, clerk of said court, and the seal thereof, the day and year last aforesaid.

JACOB GALE, *Clerk.* [SEAL.]

Endorsed: Filed Dec. 20th, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.

Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto Philip J. Mosher, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Mosher or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators, or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors and administrators, and every of them, jointly, severally, and firmly by these presents.

Witness my hand and seal, the 20th day of December, in the year of our Lord one thousand eight hundred and fifty-four.

The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois against Philip J. Mosher: Now, if the said plaintiffs, heirs, executors, or administrators shall well and truly discharge all costs that may accrue, and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf, if judgment shall pass against the said defendant, and the costs, and fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

A. L. MERRIMAN. [L. S.]

Endorsed: Filed this 20th day of Dec., A. D. 1854.
WM. POPE, *Clerk*.

And on the same day, to wit, the 20th day of December, A. D. 1854, in the record of the proceedings of said court in the above entitled cause, is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
PHILIP J. MOSHER. } Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing, thereto attached; and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs, by said attorneys, that defendant plead thereto in twenty days, or that his default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, of the December term, A. D. 1854, of the said circuit court, came into court the said Philip J. Mosher, defendant, by C. Ballance, his attorney, who filed his plea in said cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.

In the Circuit Court—Of the December term, 1854.

PHILIP MOSHER ads. JOSEPH L. LAPIN et al. } In Ejectment.

Said defendant comes and defends the force and injury, when, &c., and says, he is not guilty of the trespass and ejectment in said declaration charged against him, and of this he puts himself upon the country, &c.

C. BALLANCE, *for Def't.*

Endorsed: Filed Jan'y 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED, vs. JOHN COOK. } Ejectment.

Be it remembered that heretofore, to wit, on the 20th day of December, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, by Messrs. Manning and Merriman, their attorneys, and filed in open court their declaration, notice, and affidavit of service, and also their bond for costs, in the above entitled cause, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois, ss:

In the Circuit Court of the United States in and for the district and State of Illinois.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, *complain of* plaintiffs in this suit, complain of John Cook, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore he, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiff possessed of certain premises situated in the county of Peoria, in said State of Illinois, and described as follows, to wit: that part of lot or claim fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet, by the confirmatory act of Congress, approved the third of March, A. D. 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois, as is covered by the southwesterly half of lot eleven, in block forty-two, in Ballance's addition to the town of

Peoria, so called, laid out on the southwest fractional quarter of section nine, in township eight north, in range eight, east of the fourth principal meridian: and being so possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises, and that he unlawfully withhold from the plaintiff the possession thereof; and said plaintiffs aver that they claim title to said premises in fee. And said plaintiffs further aver that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiff say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars, and therefore *he* sue, &c.

MANNING & MERRIMAN,
Attorney for Plaintiffs.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3 Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That upon filing the same, a rule will be entered requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Attorney for Plaintiffs.

STATE OF ILLINOIS,
County of Peoria.

Alfred R. Kidwell, being first duly sworn, deposes and says that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant by delivering the same to Mrs. Cook, the wife of the within John Cook, a white person over twelve years of age, and at the residence of the said John Cook, on the 12th day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me, this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
Commissioner.

Endorsed: Filed Dec. 20th, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.

Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto John Cook, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Cook, or to said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, heirs, executors and administrators, and every of them, jointly, severally and firmly by these presents. Witness my hand and seal the 20th day of December, in the year of our Lord one thousand eight hundred and fifty-four. The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois against John Cook: Now, if the said Papin and Eldred, heirs, executors or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf, if judgment shall pass against the *the* said defendant, and the costs, and fail to be collected of Cook, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

A. L. MERRIMAN. [L. S.]

Endorsed: Filed this 20th day of Dec., A. D. 1854.
WM. POPE, *Clerk.*

And on the same day, to wit, the 20th day of December, A. D. 1854, in the records of the proceedings of said court in said cause is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
JOHN COOK. } Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing thereto attached, and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs, by their said attorneys, that defendant plead thereto in twenty days, or that his default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, of the December term, A. D. 1854, of said court, came into court the said John Cook, by C. Ballance, his attorney, and filed his plea in the above entitled cause, in the words and figures following, to wit:

UNITED STATES, *District of Illinois.*

In the Circuit Court, Dec. term, 1854.

JOHN COOK
ads. } In Ejectment.
JOSEPH L. PAPIN et al.

Said defendant comes and defends the wrong and injury, when, &c., and says he is not guilty of the trespass and ejectment in said declaration charged against him; and of this, he puts himself upon the country, &c.

C. BALLANCE, *for Def't.*

Endorsed: Filed Jan'y 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN,
NICHOLAS B. S. ELDRED, } Ejectment.
vs.
MICHAEL WEIDMAN.

Be it remembered, that heretofore, to wit, on the 21st day of December, A. D. 1854, in the December term of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning and Merriman, their attorneys, who filed in open court their declaration, notice, and affidavit of service, and also their bond for costs in the above entitled cause, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District and State of Illinois.

In the Circuit Court of the United States in and for the district and State of Illinois.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of Michael Weidman, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore he, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiffs were possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that part of lot or claim fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet, by the confirmatory act of Congress, approved third of March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of

Illinois, as is covered by the southeasterly half of lot twelve, in block forty-two, in Ballance's addition to the town of Peoria, so called, laid out on the southwest fractional quarter of section nine, in township eight north, in range eight east of the fourth principal meridian; and being so possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises, and that he unlawfully withholds from the plaintiffs the possession thereof; and said plaintiffs aver, that they claim title to said premises in fee. And said plaintiff further aver, that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars; and therefore they sue, &c.

MANNING & MERRIMAN,
Attorney for Plaintiffs.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3 Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That, upon filing the same, a rule will be entered, requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Attorney for Plaintiffs.

Dated Dec. 4th, 1854.

STATE OF ILLINOIS, *County of Peoria.*

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally, on the 12th day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
U. S. Commissioner.

Endorsed: Filed Dec. 21st, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.
Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto Michael Weidman, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Weidman or to said officers aforesaid, their certain attorneys, heirs, executors, administrators, or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors and administrators, and every of them, jointly, severally and firmly, by these presents. Witness my hand and seal the 21st day of December, in the year of our Lord one thousand eight hundred and fifty-four. The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois, against Michael Weidman: Now, if the said Merriman, heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf, if judgment shall pass against said defendant, and the costs, and fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

A. L. MERRIMAN. [L. S.]

Endorsed: Filed this 21st day of Dec., A. D. 1854.
WM. POPE, *Clerk*.

And on the same day, to wit, the 21st day of December, A. D. 1854, in the record of the proceedings of said circuit court, in said cause, is the following entry, to wit:

JOSEPH L. PAPIN et al.
vs.
MICHAEL WEIDMAN.
} Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing thereto attached, and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs, by their said attorneys, that defendant plead thereto in twenty days, or that his default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, in the December term, A. D. 1854, of said court, came into court the said Michael Weidman, defendant, by C. Ballance, his attorney, and filed his plea in said cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.

In the Circuit Court.—Of the December term, A. D. 1854.

MICHAEL WEIDMAN ads. JOSEPH L. LAPIN et al. } In Ejectment.

Said defendant comes and defends the force and injury, when, &c., and says he is not guilty of the trespass and ejectment in said declaration charged against him, and of this he puts himself upon the country, &c.

C. BALLANCE,
Att'y for Def't.

Endorsed: Filed Jan'y 12th, 1855.

WM. POPE, *Clerk.*

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED, vs. MELCHIER BIDDLE. } Ejectment.

Be it remembered, that heretofore, to wit, on the 21st day of December, in the December term, A. D. 1854, of the circuit court of the United States for the district of Illinois, came into court the said Joseph L. Papin and Nicholas B. S. Eldred, plaintiffs, by Messrs. Manning & Merriman, their attorneys, who filed in open court their declaration, notice and affidavit of service, and also their bond for costs in the above entitled cause, which are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois, ss.

In the Circuit Court of the United States, in and for the district and State of Illinois.—Of the December term, in the year of our Lord one thousand eight hundred and fifty-four.

Joseph L. Papin, who is a citizen of the State of Missouri, and Nicholas B. S. Eldred, who is a citizen of the State of New York, both of the United States of America, plaintiffs in this suit, complain of Melchier Biddle, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea wherefore he, the said defendant, with force and arms, &c., entered into the following described premises: for that heretofore, to wit, on the first day of December, in the year of our Lord one thousand eight hundred and fifty-four, the said plaintiffs were possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: that portion of lot or claim fifty-one, in the village of Peoria, confirmed to Hyppolite Maillet by the confirmatory act of Congress, approved the third of March, A. D. 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of

Illinois, as is covered by the southwest half of lot No. ten, in block No. forty-two, in Ballance's addition to the town of Peoria, so called, surveyed and laid out on the southwest fractional quarter of section nine, in township eight north, in range eight east of the fourth principal meridian; and being so possessed thereof, the said defendant afterwards, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and fifty-four, entered into such premises, and that he unlawfully withhold from the plaintiffs the possession thereof; and said plaintiffs aver that they claim title to said premises in fee. And said plaintiffs further aver, that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars; whereof said plaintiffs say that they are injured and have sustained damages to a large amount, to wit, five hundred dollars, and therefore they sue, &c.

MANNING & MERRIMAN,
Attorney for Plaintiffs.

To the above named defendant: Take notice, that—

1. On the first day of the next term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield, in said State of Illinois, on the 3d Monday of December, A. D. one thousand eight hundred and fifty-four, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That, upon filing the same, a rule will be entered, requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.,
MANNING & MERRIMAN,
Attorney for Plaintiffs.

Dated Dec. 4th, 1854.

STATE OF ILLINOIS, *County of Peoria.*

Alfred R. Kidwell, being first duly sworn, deposes and says, that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant by delivering the same to him personally on the 12th day of December, A. D. 1854.

ALFRED R. KIDWELL.

Subscribed and sworn to before me, this 16th day of December, A. D. 1854.

A. L. MERRIMAN,
U. S. Comm'r.

Endorsed: Filed Dec. 21st, 1854.

WM. POPE, *Clerk.*

UNITED STATES OF AMERICA,
State and District of Illinois.

Circuit Court, December term, A. D. 1854.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria, and State and district of Illinois, am held and firmly bound unto Melchior Biddle, or to the officers of the circuit court of the United States for the district of Illinois, in the sum of five hundred dollars, to be paid to said Biddle or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators, or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors, and administrators, and every of them, jointly, severally and firmly, by these presents. Witness my hand and seal the 21st day of December, in the year of our Lord one thousand eight hundred and fifty-four. The condition of the above obligation is such, that whereas Joseph L. Papin and Nicholas B. S. Eldred have this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the district of Illinois, against Melchier Biddle: Now, if the said Merriman, heirs, executors, or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in their behalf if judgment shall pass against the said defendants, and the costs, and fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation shall be void, otherwise of full force and effect.

A. L. MERRIMAN. [L. S.]

Endorsed: Filed this 21st day of Dec., A. D. 1854.
WM. POPE, *Clerk.*

And on the same day, to wit, the 21st day of December, A. D. 1854, in the record of the proceedings of said court in said cause is the following entry, to wit:

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED, vs. MELCHIER BIDDLE. } Ejectment.

This day came the plaintiffs, by their attorneys, and filed their declaration in ejectment herein, together with the notice in writing thereto attached, and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendant, it is ordered, on motion of said plaintiffs by their said attorneys, that defendant plead thereto in twenty days, or that his default be entered.

And afterwards, to wit, on the 12th day of January, A. D. 1855, in the December term, A. D. 1854, of said court, came into court the said Melchier Biddle, defendant, by C. Ballance, his attorney, and filed his plea in said cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Illinois.

Of the December term, A. D. 1854, of the Circuit Court.

MELCHIER BIDDLE
ads. } In Ejectment.
JOSEPH L. PAPIN.

Said defendant comes and defends, &c., and says he is not guilty of the trespass and ejectment in and by said declaration alleged against him, and of this he puts himself upon the country, &c.

C. BALLANCE, *for Def't.*

Endorsed: Filed Jan. 12th, 1855. WM. POPE, *Clerk.*

And afterwards, to wit, on the 20th day of July, in the July term, A. D. 1855, of the circuit court of the United States for the northern district of Illinois, in the record of the proceedings of said court, in the following named cases, is the following entry, to wit:

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 252—Ejectment.
JAMES RAMSAY.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 253—Ejectment.
NICHOLAS ERION.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 254—Ejectment.
GEORGE HEPPLER.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 255—Ejectment.
CATHERINE ROESTER.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 256—Ejectment.
CATHERINE BENSEL.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 259—Ejectment.
PHILIP J. MOSHER.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 261—Ejectment.
JOHN COOK.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 267—Ejectment.
MICHAEL WEIDMAN.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs. } 268—Ejectmen .
MELCIER BIDDLE.

By agreement of the parties by their attorneys, and in conformity with their stipulation on file, it is ordered by the court that the above entitled causes, numbered 252, 253, 254, 255, 256, 259, 261, 267 and 268, be consolidated, and that Charles Ballance be substituted upon the record herein as party defendant, in the place and stead of the present defendants, and that the cause be continued until next term.

And afterwards, to wit, on the 21st day of July, in the July term, A. D. 1856, of said court, in the record of the proceedings thereof in the case of Joseph L. Papin and Nicholas B. S. Eldred, against Charles Ballance, as the same was substituted, in accordance with the last above recited entry, is the following entry, to wit:

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs.
CHARLES BALLANCE. } Ejectment.

Now at this day came the parties by their respective attorneys, and upon issue joined, thereupon came a jury of good and lawful men, to wit: Francis Barnett, William Henry, H. M. Boggess, Peter Stout, John Brown, Rufus Ordway, Daniel P. Holt, William McKee, William W. Crandall, M. Tagart, Elisha Putnam, and D. Johnson, who were duly elected, tried and sworn, and after hearing the evidence and arguments of counsel, and receiving instructions from the court, the jury retired to consider of their verdict, and after a short absence they returned into court with the following verdict, to wit: We, the jury, find the defendant guilty of unlawfully withholding from the possession of the plaintiffs the land and premises described in their declaration, to wit: those premises situated in the county of Peoria, in the State of Illinois, described as follows, to wit: that part of claim or lot fifty-one in the village of Peoria, confirmed to Hyppolite Maillet by the confirmatory act of Congress approved March 3d, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois, as is covered by the following described lots as laid out by Charles Ballance, in his addition to the town of Peoria, called Ballance's addition, and laid out on the southwest quarter of section nine in township eight north, in range eight east of the fourth principal meridian, to wit: the northwesterly half of lot one in block forty-two, lots two, nine, ten, eleven, and the southeasterly half of lot twelve in block forty-two, and the southwest half of lot ten in block forty-one. We also find the estate established in the plaintiffs, on the trial, to be an estate in fee simple, and we assess the plaintiffs' damages at the sum of one cent.

It is thereupon considered and adjudged by the court that the plaintiffs have and recover of and from the said defendant possession of the land and premises above described, according to the force, form and effect of their said recovery, and that they have a writ of possession therefor, and that they also have and recover of and from the defendant the said sum of one cent, their damages as aforesaid assessed, together

with their costs by them about their suit in this behalf expended, amounting to the sum of dollars and cents, and that they have execution therefor.

And afterwards, to wit, on the 6th day of August, in the July term, A. D. 1856, of said court, came the said defendant, and filed in open court his bill of exceptions in said cause, in the words and figures following, to wit:

UNITED STATES CIRCUIT COURT,
Northern District of Illinois.
July term, A. D. 1856.

JOSEPH L. PAPIN, NICHOLAS B. S. ELDRED,
vs.
CHARLES BALLANCE.
} In Ejectment.

Be it remembered, that on the trial of the above entitled cause, the plaintiff, to maintain the issue on his part, read in evidence the act of Congress of May 15th, 1820, entitled An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois.

2d. The act of Congress of 3d March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

3d. He offered to read in evidence a part of the report of Edward Coles, register of the land office at Edwardsville, as the same is found in print in the 3d volume of American State Papers prepared by Walter Lowry, and printed by Duff Green, under the authority of the Senate; to the reading of which defendant objected, because there is no law making that book, or any part of it, evidence; but the court overruled said objection, and a part of said printed report was given in evidence, referring to this claim.

4th. He then offered in evidence a connected plat of all the French claims surveyed at Peoria by Joseph C. Brown, deputy surveyor, which was approved by the surveyor general at St. Louis on the 1st of September, 1840; to which was appended the following certificate:

Plat of the new village of Peoria, and such of the out-lots and field-lots in the neighborhood thereof as are connected with said new village, in one continuous survey and description of the out-boundaries of the said town, and continued connection of out-lots and field-lots situate on sections 9 and 16, township 8 north of the base line, range 8 east of the 4th principal meridian.

[*For plat, see original, page* 59.]

Description.

Begin at the upper end of the southeastern edge of First street on the southwest bank of lake Peoria; thence N. 46½° W. one hundred

feet to the eastern corner of unclaimed lot A, 420 feet 10 inches, the north corner of said unclaimed lot A, at the northeast end of the S. E. edge of Second street, 486 feet 10 inches, to the N. E. end of the N. W. edge of Second street; thence S. 43½° W. with the N. W. edge of Second street, 256 feet 8 inches, to the intersection with the N. E. edge of street A; thence N. 46½° W. with the N. E. edge of street A, 320 feet 10 inches, to the N. W. end of the N. E. edge of said street A; thence S. 43½° W. 66 feet to the north corner of lot No. 66 at the N. W. end of the S. W. edge of said street A, 108 feet 9⅓ inches, the west corner of lot No. 66 and north corner of unclaimed lot C, 322 feet 8 inches, the west corner of unclaimed lot C and the north corner of lot No. 12, 408 feet 2⅔ inches, the west corner of lot No. 12 and the N. W. end of the N. E. edge of street B, 474 feet 2⅔ inches, the N. W. end of the S. W. edge of street B and the north corner of lot No. 8, 709 feet 6 inches, the north corner of lot No. 15, 795 feet and ⅔ of an inch, to the west corner of lot No. 8, which is also the west corner of lot No. 15 and east corner of lot No. 61 and north corner of lot No. 28; thence N. 46½° W. with the N. E. boundary of lot No. 61, 15 chains and 40 links, to the north corner of lot No. 61; thence with the N. W. boundary of lot No. 61 S. 43½° W., 5 chains and 52¼ links, to the west corner of lot No. 61; thence with the S. W. boundary of lot No. 61 S. 46½° E., 4 chains and 94 links, to the north corner of lot No. 51 at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 61; thence with the N. W. boundary of lot No. 51 S. 43½° W., 4 chains and 88 links, to the west corner of lot No. 51; thence with the S. W. boundary of lot No. 51 S. 46½° E., 6 chains and 10 links, to the north corner of lot No. 40, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 51; thence with the N. W. boundary of lot No. 40 S. 43½° W., 3 chains and 23⅓ links, to the west corner of lot No. 40; thence with the S. W. boundary of lot No. 40 S. 46½° E., 4 chains 34 links, to the N. W. end of the N. E. edge of street E on the S. W. boundary of lot No. 40; thence S. 43½° W. 66 feet to the N. W. end of the S. W. edge of street E and the north corner of unclaimed lot E, 322 feet 8 inches, to the east corner of lot No. 31 at the intersection of the N. E. boundary thereof with the N. W. boundary of unclaimed lot E; thence with the N. E. boundary of lot No. 31 N. 46½° W., 13 chains and 16 links, to the north corner of lot No. 31; thence with the N. W. boundary of lot No. 31 S. 43½° W., 3 chains and 88 links, to the west corner of lot No. 31 at the intersection with the N. W. boundary thereof with the N. E. boundary of lot No. 37; thence with the N. E. boundary of lot No. 37 N. 46½° W., 5 chains and 5½ links, to the north corner of lot No. 37; thence with the N. W. boundary of lot No. 37 S. 43½° W., 7 chains and 66 links, to the west corner of lot No. 37; thence with the S. W. boundary of lot No. 37 S. 46½° E., 6 chains and 67½ links, to the north corner of lot No. 67 at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 37; thence with the N. W. boundary of lot No.

67 S. 43½° W., 6 chains, to the west corner of lot No. 67; thence with the S. W. boundary of lot No. 67 S. 46½° E., 6 chains and 38 links, to the south corner of lot No. 67 on the N. W. boundary of lot No. 64; thence S. 43½° W., 1 chain and 66 links, the west corner of lot No. 64 and north corner of lot No. 20, 7 chains and 61 links, the west corner of lot No. 20 and north corner of lot No. 48, 11 chains and 86 links, to the west corner of lot No. 48; thence with the S. W. boundary of lot No. 48 S. 46½° E., 6 chains and 88 links, the point of intersection of the S. W. boundary of lot No. 48 with the section line between sections 9 and 16, township 8 north, range 8 east of the 4th principal meridian, which point is 13 chains and 93 links N. 89½° W. of the corner of fractional sections 9 and 16 on the lake, 8 chains, to the south corner of lot No. 48; thence with the S. E. boundary of lot No. 48 N. 43½° E., 1 chain and 6 links, the point of intersection of the S. E. boundary of lot No. 48 with the section line between sections 9 and 16, township 8 north, range 8 east of the 4th principal meridian, which point is 12 chains and 38 links N. 89½° W. of the corner to fractional sections 9 and 16 on the lake, 4 chains and 25 links, to the east corner of lot No. 48 on the S. W. boundary of lot No. 20; thence with the S. W. boundary of lot No. 20 S. 46½° E., 2 chains, to the south corner of lot No. 20; thence N. 43½° E., 5 chains and 95 links, the east corner of lot No. 20 and south corner of lot No. 64, 13 chains and 61 links, the east corner of lot No. 64 and *and* south corner of lot No. 43, 21 chains and 27 links, to the east corner of lot No. 43 and south corner of lot No. 34 at the S. W. end of the N. W. edge of Second street; thence S. 46½° E., 66 feet, the S. W. end of the S. E. edge of Second street and west corner of lot No. 33, 386 feet 10 inches, the south corner of lot No. 33, 491 feet 1½ inches, to the lower end of the S. E. edge of First street on the N. W. bank of lake Peoria; thence along the N. W. bank of lake Peoria the following courses and distances: N. 38° E., 176 links; thence N. 42° E., 432 links; thence N. 17¾° E., 150 links; thence N. 78° E., 72 links; thence N. 47½° E., 417 links; thence N. 37° E., 188 links; thence N. 44¾° E., 2,448 links, to the place of beginning.

Then, for connection with the public surveys, run from said place of beginning along the N. W. bank of lake Peoria the following courses and distances: N. 44¾° E. 1,081 links, thence N. 50¾° E. 1,300 links, to the point of intersection of the section line between sections 9 and 10 with the N. W. bank of lake Peoria, which point is 2,406 links S. 0° 30′ W. of the corner to sections 3, 4, 9 and 10, township 8 north, range 8, east of the 4th principal meridian. Also from the lower end of the S. E. edge of First street the following courses and distances along the bank of the lake were taken for connection: S. 51¾° W. 198 links, thence S. 39° W. 819 links, thence S. 41¼° W. 216 links, thence S. 49½° W. 287 links, thence S. 85° W. 116 links, to the point of intersection of the section line between sections 9 and 16, township 8 N., range 8, east of the 4th principal meridian, which point is 2,510 links S. 89° 30′ E. of the corner to sections 8, 9, 16 and 17, of said township.

Surveyed on the several days designated in the foregoing separate descriptions of the lots by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved this first day of September, 1840.

WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

OFFICE OF THE SURVEYOR GENERAL FOR ILLINOIS AND MISSOURI, *Saint Louis, January 31st*, 1854.

I certify that the foregoing plat of the new village of Peoria, and of such of the out-lots and field-lots in the neighborhood thereof as are connected with said new village in one continuous survey and description of the out-boundaries of the said town, and continued connection of out-lots and field-lots, situate on sections 9 and 16, township 8, north of the base line, range 8, east of the 4th principal meridian, are correctly copied from the records of the surveys of Peoria, pages 79 and 80, preserved in this office.

JNO. LOUGHBOROUGH,
Surveyor General.

To the reading of which defendant objected, because the survey ought to have been certified from the office of the Commissioner of the General Land Office, but the court overruled said objection, and said plat was given in evidence to the jury.

5th. He then introduced a special plat of French claim No. 51, to which the defendant made the same objection, but the court ruled as before.

[*For plat see original, page* 65.]

Claim No. Fifty-one.

Situate on the southwest fractional quarter of fractional section 9, in fractional township 8, north of the base line, range 8, east of the 4th principal meridian.

Plat and description of the survey of an out-lot of 5 acres and $104\frac{1}{0\,0\,0}$ of an acre, equal to 6 arpents of land, adjoining the new village of Peoria, in the State of Illinois, confirmed to Hypolite Maillet by an act of Congress, approved the 3d of March, 1823, entitled "An

act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," it being No. 51 of the report made by the register of the land office at Edwardsville, in pursuance of an act of Congress, approved the 15th of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

Description: Commence at a post on the N. E. boundary of lot No. 40, which is the south corner of this lot and west corner of unclaimed lot D; thence N. 46½° W. 4 chs. and 36 links to a post in the north corner of lot No. 40, 10 chains and 46 links to a post, the west corner of this lot, from which the north corner of Francis Voris's white framed dwelling-house bears S. 34° W. 6 chains and 79½ links distant; thence N. 43½ E., 4 chains and 88 links, to a post in the S. W. boundary of lot No. 61, which post is the north corner of this lot, and it is 1 chain and 50 links S. 46½ E. of a post at the intersection of the S. W. boundary of lot No. 61 with the subdivision line between the N. W. and S. W. quarters of section 9, township 8 north, range 8, east of the 4th principal meridian, which post is 9 chains and 60 links N. 89° 30′ W. of a stone set by a former surveyor as corner common to the N. E., N. W., S. W. and S. E. quarters of said section 9; thence S. 46½° E., 10 chains and 46 links, to a post the east corner of this lot, south corner of lot No. 61, west corner of lot No. 46, and north corner of lot No. 49; thence S. 43½° W. 64 feet 2 inches to a post, the west corner of lot 49, and north corner of lot No. 50, 128 feet 4 inches to a post at the N. W. end of the N. E. edge of the cross street D, which post is the west corner of lot No. 50, 194 feet 4 inches to a post at the N. W end of the S. W. edge of the cross street D, which post is the north corner of lot No. 55, 279 feet 10⅔ inches to a post, the west corner of lot No. 55, and north corner of unclaimed lot D, 322 feet 8 inches, or 4 chains and 88 links, to the place of beginning.

Surveyed on the 5th of May, 1837, by Jos. C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved this first day of September, 1840.

(Signed) WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

SURVEYOR'S OFFICE, ST. LOUIS, 22*d of July*, 1847.

The foregoing plat and description of the survey of lot No. 51, in the village of Peoria, the caption and certificate thereto, are correctly copied from the record thereof, in book of record of surveys (in) Peoria, Illinois, in this office. Six words are crossed over before signing.

F. R. CONWAY,
Surveyor of the Public Lands in the States of Illinois and Mo.

6th. He then read deeds and depositions showing that whatever title Hyppolite Maillet may have been entitled to by reason of these laws

and proceedings, and the said report and survey, had become vested in said plaintiffs before the commencement of this suit.

Defendant then, to maintain the issue on his part, read in evidence, 1st, a certificate of pre-emption, which is as follows:

LAND OFFICE, QUINCY, ILL., 12*th April*, 1836.

I, Samuel Alexander, register of said office, do hereby certify, that on the 28th day of July, 1832, Charles Ballance claimed and established a right of pre-emption to the southwest quarter of section No. nine, township eight north of the base line, and range eight east of the 4th principal meridian, as appears by documents on file in my office.

Given from under my hand and seal the day and year aforesaid.

SAMUEL ALEXANDER, *Register*. [L. S.]

2d. He read a receipt of the receiver of public money at Quincy, Ill., which is as follows:

Pre. act, 1834. No. 13,293.

RECEIVER'S OFFICE, QUINCY, ILLINOIS,
27*th November*, 1837.

Received from Charles Ballance, of Peoria county, Illinois, the sum of one hundred and eighty-four dollars and twenty-eight and $\frac{3}{4}$ cents, being in full payment for the southwest fractional quarter of section No. nine, township No. eight north of the base line, of range No. eight east of the 4th principal meridian, containing one hundred and forty-seven acres and $\frac{43}{100}$ of an acre, at the rate of one dollar and twenty-five cents per acre.

(Duplicate.) THO. CARLIN, *Receiver*.

$184 28$\frac{3}{4}$.

3d. He read in evidence *of* the certificate of entry, which is as follows:

U. S. LAND OFFICE, QUINCY, ILL.,
27*th November*, 1837.

I do hereby certify that Charles Ballance, of Peoria county, in the State of Illinois, did this day enter or purchase, at this office, the southwest fractional quarter of fractional section No. 9, in township No. 8 north, of range No. 8 east, of the 4th pr. meridian, containing one hundred and forty-seven and $\frac{43}{100}$ acres, certificate No. 13,293, as appears of record in this office.

SAMUEL LEECH, *Register*.

STATE OF ILLINOIS, *County of Peoria*.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder of said county, do certify the within certificate is this 28th day of May, A. D. 1840, duly recorded in said office, in book L, page 186.

CHARLES KETTELLE, *R. P. Co.*

4th. He read a deposition of Smith Frye, which is as follows:

PAPIN & ELDRED vs. CHARLES BALLANCE. } In Ejectment.

In the Circuit Court of the United States of America, northern district of Illinois.

The deposition of Smith Fry, taken on behalf of the defendant in the above entitled cause, by agreement of parties, at my office in the city of Chicago, in the said district, on the seventeenth day of July, in the year of our Lord one thousand eight hundred fifty-six, and to be used in the trial of said cause, and Charles Ballance, the defendant, and A. L. Merriman, attorney for the plaintiff, were present at the caption thereof before me.

J. T. MOULTON, *U. S. Commissioner.*

I removed from the State of Pennsylvania to the town of Peoria, in the State of Illinois, in the year 1834. I have lived in Peoria and its immediate vicinity ever since. I am well acquainted with the lands in and about Peoria. As a means of obtaining that information, I have a portion of the time held the office of sheriff, a portion of the time held the office of county commissioner, and a portion of the time held the office of supervisor of the county of Peoria. When I went to live at Peoria, Charles Ballance was in the actual possession of a portion of the southwest quarter of section nine (9), township eight (8) north, of range eight (8) east, of the fourth (4th) principal meridian, by having it enclosed by a substantial fence, claiming the whole of said quarter in his own right and against the claims of all others, and he has ever since so continued to hold and claim it, except as he has sold portions of it to others and yielded them the possession accordingly. Said Ballance did not then reside on said quarter, but on an adjoining fraction. But he has been actually residing on the same for more than twelve years last past. About 19 or 20 years ago, one Bigelow took possession of and enclosed a portion of said tract outside of said Ballance's enclosure, and said Ballance brought an action of ejectment against him which was decided in favor of said Ballance by the circuit court of Peoria county, and a writ of possession issued upon said judgment to me as sheriff of said county, and I, as said sheriff, executed said writ, by putting said Ballance into possession of that portion. I have known instances of persons claiming under what are commonly called French claims, setting up claims to portions of said tract, and said Ballance resisting those claims. I never heard of said Ballance claiming under or subservient to those claims. He always professed to hold adversely to them. The portion of said tract that said Bigelow enclosed was northwest of Adams street.

SMITH FRYE.

Cross-examined. Mr. Ballance had in actual possession probably from one to two acres of said quarter section. It was on the southeasterly part of said quarter section. I can't state precisely when Mr. Ballance first professed to hold adversely to the French claims. I don't think anything of any consequence was said about it till about the time Robert Forsyth commenced some suits upon them. He always said the claims were not worth anything; that he didn't care anything about them. Mr. Vories was in possession of a part, owning forty-two acres in the northwest corner of said quarter section in 1834, and built on it that year, and was living in the house when I came into the county in 1834, and had from two to three acres enclosed, and he and his family have lived on that tract ever since.

SMITH FRYE.

Written by me, and subscribed and sworn to before me.

J. T. MOULTON,
U. S. Com'r.

5th. He read in evidence deposition from James Henderson, which is as follows:

I, James Henderson, do solemnly swear, that on the 16th of May, 1846, there was a brick house on lot 11 in block 40 of Ballance's addition to Peoria, which Charles Ballance claimed to be the owner of, and on that day I moved into said house, under a contract with said Ballance, and I lived in said house, and occupied it with my family, as the tenant of said Ballance, from that day to the first day of November, 1855. I further testify, that the house occupied by Frederick Mainghaff, on lot (7) in said block, has been standing there, and occupied by different tenants of said Ballance, for the space of eight years. That I, as a house joiner, wrought on said house eight years ago, but that the lot on which said house stands was enclosed and cultivated before said house was built, by one Coleman, as the tenant of said Ballance. Furthermore, that the portion of said block occupied and possessed by Alonzo Simms at present, and for the last five or six years, had a small dwelling-house on it when he came to Peoria. That, in the year 1848, or previously thereto, one James Dougherty bought said house and lot from one Fash, who, I understood, had bought the ground of Charles Ballance, and in said year said Dougherty employed me and others to change, remodel, and enlarge said building, and that said building and lot has been constantly in the possession of said Dougherty or Simms ever since.

Moreover, that when he came to live in Peoria, as aforesaid, one Chapman occupied a brick house on lot eight in said block, under a purchase, as I always understood, from Charles Ballance. That said Chapman held possession of said house and lot until his death.

That upon the death of said Chapman, one Finnell, who claimed to be the brother-in-law of said Chapman, and guardian of his only child, took possession of said premises, and has held possession of them

ever since, as the guardian of said child. I further state that when I first came to Peoria to live, as aforesaid, there was a frame dwelling-house standing on lot one in block forty-two of said block, in which one Daniel Waggoner was residing That said house has ever since been occupied by persons who claimed to be tenants of said Ballance. That about ten years ago, but after he came to Peoria to live, there was a small dwelling-house erected on lot eight in block thirty-nine in said addition, into which, as soon as it was done, or before it was done, one Hoge removed, and occupied it for a considerable time; after which several others occupied, but all, as I understood, as tenants of Charles Ballance. These are the premises occupied two or three years ago by one Ernst, a shoemaker.

I further testify, that during all the time I have *live* in Peoria, Charles Ballance has lived on the southwest quarter of section nine, of township eight north, of range eight east of the fourth principal meridian, with his family, and has always notoriously claimed the whole of said quarter section in his own right, except as he sold parts of it to others. There is, perhaps, no fact in the history of Peoria more notorious, than that said Ballance held said tract of land adversely to those titles known at Peoria by the designation of French claims. And further deponent saith not.

JAMES F. HENDERSON.

Subscribed and sworn to before me, this 19th July, 1856.

GEO. T. METCALFE,
U. States Commissioner.

Endorsed: Filed July, 1856.

W. H. BRADLEY, *Clerk.*

6th. He then proved, by Norman H. Purple, that he had been acquainted with defendant and property in dispute for 19 years. That he was also acquainted with Mr. Voris, spoken of in said Frye deposition; that Voris occupied a portion of the said S. west quarter of section nine, but witness always understood that he held it by deed from said Ballance. Ballance always claimed to hold said tract in his own right, resisting all who claimed adversely to him.

7th. He introduced a plat of so much of Ballance's addition, and said lot 51 marked on it, as represented the ground in controversy.

[*For plat see original, page* 76.]

The crossing of the lines running to the cardinal points indicate the centre of section nine, T. 8 N., R. 8 E. The black lines represent a part of Ballance's addition to Peoria; the red lines, French claim No. 51.

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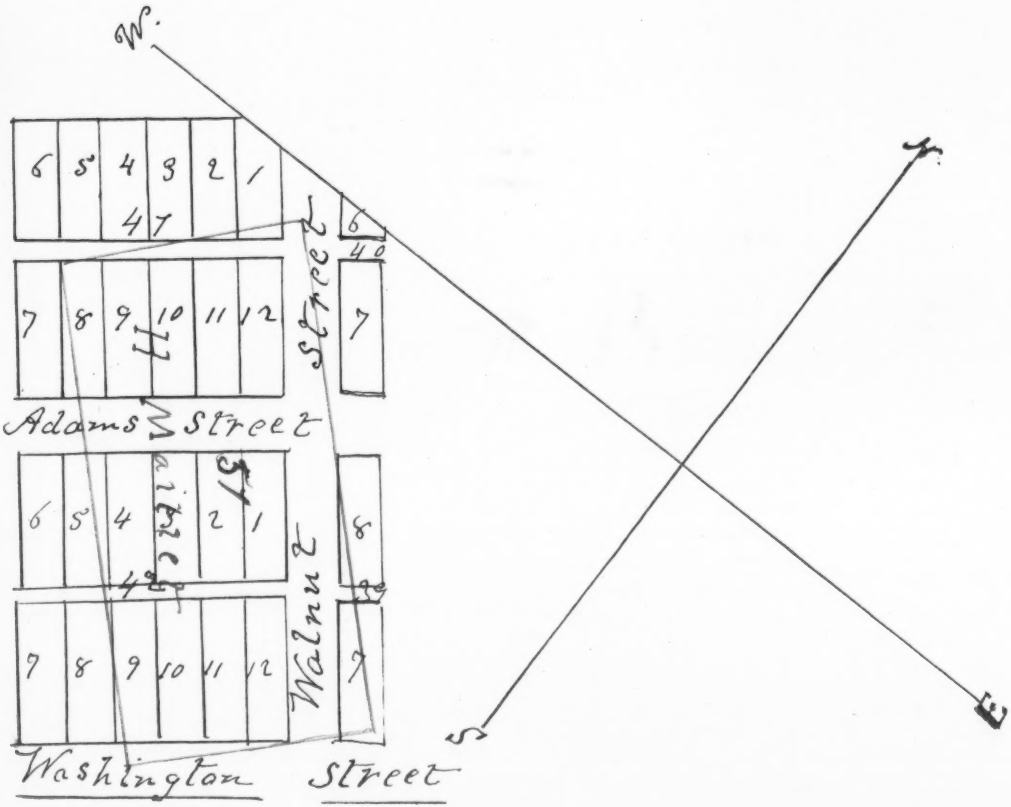
W.
N.
E.
S.
6 5 4 3 2 1
47
6
40
7 8 9 10 11 12
44
7
Adams Street
Walnut Street
6 5 4 2 1
48
8
7 8 9 10 11 12
7
Washington Street

8th. It was agreed by both parties, that all taxes that had been assessed on the following lots in Ballance's addition to Peoria had been paid by said Ballance and those holding under him for more than seven years before the commencement of this suit, to wit: lot ten in block 41, and lots one and two in block 42, in Ballance's addition to Peoria; and that the property in dispute in this action is, and when this suit was brought was, worth more than two thousand dollars.

Plaintiff then introduced the application of Charles Ballance for the entry of said quarter section, as follows:

No. 13,293. *27th day of November*, 1837.

I, Charles Ballance, of Peoria county and State of Illinois, do hereby apply for the purchase of the southwest fractional qr. of section numbered nine in township numbered eight, north of range numbered eight, east of the fourth principal meridian, containing one hundred and forty-seven $\frac{43}{100}$ acres, according to the returns of the surveyor general, for which I have agreed with the register to give at the rate of one dollar and twenty-five cents per acre; subject, however, to the rights of any and all persons claiming under act of Congress 3d March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

C. BALLANCE.

I, Samuel Leach, register of the land office at Quincy, Illinois, do hereby certify, that the frac'l qr. section above described contains 147 $\frac{43}{100}$ acres, as mentioned, and that the price agreed upon is $1 25 per acre. SAMUEL LEECH, *Register*.

Pre. act, 1834.

LAND OFFICE, QUINCY, *Nov. 9th*, 1854.

I, A. C. Marsh, register of the land office at Quincy, Ill., do hereby certify that the foregoing is a true and correct copy of the original application of Charles Ballance, now on file in this office.

A. C. MARSH, *Register*.

Plaintiff then introduced the patent to Charles Ballance, issued under the foregoing application, as follows:

Certificate No. 13,293.

The United States of America to all to whom these presents shall come, greeting:

Whereas Charles Ballance, of Peoria county, Illinois, has deposited in the General Land Office of the United States a certificate of the register of the land office at Quincy, whereby it appears that full payment has been made by the said Charles Ballance, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the southwest fractional quarter of section nine, in township eight,

north, of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing one hundred and forty-seven acres and forty-three hundredths of an acre, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Charles Ballance:

Now know ye, that the United States of America, in consideration of the premises and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Charles Ballance, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said Charles Ballance and to his heirs and assigns forever; subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois. In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed. Given under my hand at the city of Washington, the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the United States the sixty-second.

MARTIN VAN BUREN. [SEAL.]

By the President:

By A. VAN BUREN, *Sec'y*.

H. M. GARLAND,
Recorder of the General Land Office.

The above was all the evidence in the case. Defendant then asked the court to instruct the jury that—

JOSEPH L. PAPIN,
NICHOLAS B. S. ELDRED,
vs.
CHARLES BALLANCE.
} In Ejectment.—July term, 1856.

A.—*Instructions asked by Defendant.*

1st. Defendant asks the court to instruct the jury that the title introduced by defendant is superior at law to that offered by plaintiff.

2d. That if the jury believe, from the evidence, that defendant has been in the actual possession of a part of the southwest quarter of section nine, in township eight north, of range eight east, of the fourth principal meridian, claiming the whole under his pre-emption certificate of 1832, then plaintiff cannot recover.

3d. That the certificate of entry, dated November 27th, 1837, is evidence of title in defendant derived from the United States, and that if the jury believe, from the evidence, that defendant, or those holding under him, had been in possession of the premises in dispute more than seven years before this suit was brought, plaintiff cannot recover.

4th. That if the jury believe, from the evidence, that defendant, and those holding under him, have been in the actual possession of any lot on Ballance plat which interferes with said French claim No. 51, for seven years before this suit was brought, and had, during said time, paid all taxes due on said lot for said time, plaintiff cannot recover in this action.

Which instructions the court refused to give, but instructed the jury as follows:

B.—*Instructions of the Court to the Jury.*

PAPIN et ELDRED
vs.
BALLANCE.

The court declined giving the instructions to the jury in the form requested by the defendant's counsel, but instructed the jury as follows:

1st. That the acts of 1820 and 1823, taken in connexion with the report of the register of the land office at Edwardsville, and the survey of the surveyor-general, vested the legal title for the purposes of this action in the original claimant, if living, or if dead, in his legal representatives. That, under our law, an action of ejectment could be maintained by a party having the right and title under the acts of Congress, although the patent had not issued. That until the lot was surveyed, and the survey approved by the surveyor-general, as required by the act of 1823, the claimant could not know the extent and boundaries of the lot; and before that time there could be no adverse possession under the statute of limitations.

2d. The defendant was not bound to enter the land or accept the patent, but he applied for the land and took his title subject to those French claims; and the only title shown is one which is subject to the rights of the French claimants under the act of 1823, and under the circumstances detailed in evidence, and which are not disputed, the court is of opinion that Ballance's title never included, and the government never intended it should include, the lot in controversy, if there was any one capable of taking the lot under the act of 1823; and it appears by the application he had full notice of these claims. Under the circumstances, a possession of a part of the quarter could not be considered, in point of law, a possession of the whole, and the defendant was bound by his title, and could only claim the land under his title.

3d. If the jury find the defendant entered and was possessed of the lot in controversy, claiming subject to the title of the French claimants under the act of 1823, he cannot be said to have entered and be possessed, adversely, so as to be protected by the statutes of limitations.

4th. If the defendant had been possessed of the lot in controversy under a title adverse or in hostility to the title of those claiming under

the act of 1823, for seven successive years, and had paid the taxes for that time, he might be protected under the statutes.

To all of which decisions, opinions, and rulings of the court defendant then and there excepted, and prayed that this, his bill of exceptions, be sealed, signed, and made of record, which is done. Exceptions allowed.

THOMAS DRUMMOND. [SEAL.]

Endorsed: Filed August 6th, 1856.

WM. H. BRADLEY, *Clerk*.

And on the 29th day of July, in the July term, A. D. 1856, of said court, the said defendant filed in open court, with the clerk thereof, an appeal bond, in the words and figures following, to wit:

Circuit Court of the United States for the northern district of Illinois, July term, A. D. 1856.

Know all men by these presents, that we, Charles Ballance and Isaac Underhill, are held and firmly bound unto Joseph L. Papin and N. B. S. Eldred, in the sum of two thousand dollars, to be paid to the said Papin and Eldred, their executors, or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this 25th day of July, A. D. 1856. Whereas the above named Charles Ballance hath prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in a certain suit, wherein said Papin and Eldred were plaintiffs, and said Ballance was defendant, by the above named court: Now, therefore, the condition of this obligation is such, that if the above named Charles Ballance shall prosecute his said writ of error to effect, and answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; but otherwise, it shall remain in full force and virtue.

C. BALLANCE. [SEAL.]
ISAAC UNDERHILL, [SEAL.]
By his attorney in fact, C. BALLANCE, [SEAL.]

Sealed and delivered in presence of—
WM. H. BRADLEY.

Security approved.

THOMAS DRUMMOND.

Endorsed: Filed July 29th, 1856.

WM. H. BRADLEY, *Clerk*.

And on the same day, to wit, the 29th day of July, A. D. 1856, said defendant filed with the clerk of said court his writ of error, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois, ss.

The United States of America to the judges of the Circuit Court of the United States for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court before you, between Joseph L. Papin and Nicholas B. S. Eldred, against Charles Ballance, a manifest error hath happened to the great damage of the said Charles Ballance, as by his complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday in December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right, and according to the law and custom of the United States, should be done.

Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 28th day of July, A. D. 1856, and of our independence the 81st year.
[SEAL.]

WM. H. BRADLEY, *Clerk*.

Endorsed: Filed July 29th, 1856.

WM. H. BRADLEY, *Clerk*.

NORTHERN DISTRICT OF ILLINOIS, *ss.*

I, William H. Bradley, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify the foregoing transcript to be a full, true, and perfect copy from the record of all the proceedings which have been had in said court in said cause of Joseph L. Papin and Nicholas B. S. Eldred, against Charles Ballance, as the same now appears in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at my office, in Chicago, in said northern district, this twenty-fifth day of October, A. D. 1856.
[SEAL.]

WM. H. BRADLEY, *Clerk*.

Said Ballance comes, when, &c., and says, that in the said record and the rendition of said judgment there is manifest error in this, to wit:

1st. Said court erred in permitting the plaintiff to read to the jury a portion of the printed volume, called 3d volume of American State Papers.

2d. Said court erred in permitting said plaintiff to give in evidence to the jury said two plats, approved September 1st, 1840.

3d. Said court erred in refusing to instruct said jury as asked for by said defendant.

4th. Said court erred in instructing said jury in the manner and to the purport it did instruct them.

5th. Said judgment ought to have been for said defendant, and not for said plaintiffs.

For which, and for other errors apparent in said record and proceedings, he prays that said judgment may be set aside, disannulled, and wholly held for naught.

C. BALLANCE.

Filed 15th January, 1857.